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INTEL/BSTZ			EXAMINER	
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SUNNYVALE, CA 94085-4040			ART UNIT	PAPER NUMBER
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			09/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,700

Applicant(s)

BELMONT ET AL.

Examiner

KWASI KARIKARI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.

4a) Of the above claim(s) 3,4 and 6,10-11,13,17-18,20,24-25 and 27 cancelled is/are withdrawn from consideration.

- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-9,12,14-16,19,21-23,26 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, filed on 02/20/2008 with respect to claims 1-2, 5, 7-9, 12, 14-16, 19, 21-23, 26 and 28 in the remarks, have been considered but are moot in view of the new ground(s) of rejections.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-9, 12 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 8 recites a computer readable medium whereby the specification specifically mentions an example of computer readable medium to include transmission forms, such as, *carrier waves* (see Paragraph [0020]) which do not fall under statutory subject matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the

inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(c), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 5, 8, 9, 12, 15, 16, 21-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson (U.S. 20040266399 A1), (hereinafter Simpson) in view of Pepper et al., (US 5,930,700), (hereinafter Pepper).

Regarding claims 1,8,15 and 22, Simpson discloses a method /data processing device/article/system for managing an incoming call on a cell phone (= wireless telephone 100 communicates with system 604, see Par. 0029) comprising:

receiving notification of an incoming call on a personal data processing device external to the cell phone (= wireless telephone 100 is connected and in communication with system 604; and network 602; wireless telephone 100 set up and provide selected status announcements from wireless telephone user to a caller; and incoming call on wireless telephone which is connected with system 604 via network 602, see Pars [0029-30] and Fig. 6; whereby the "personal data processing device" is being associated with system 604 which is communication with the wireless telephone 100) the personal data processing device coupled to the cell phone via a connection (= wireless telephone 100 is connected with system 604 via network 602, see Par. 0029; and Fig. 6);

retrieving caller identification ID and information associated with the incoming call (= calling number or Caller ID is displayed in the display 102, see Page 3, line 0022),

examining one or more of predefined preferences of a user of the cell phone, a calendar of the user indicating availability of the user, and real-time instructions from the user, wherein examining includes determining whether a configuration is set such that a response is automatically sent to the incoming call (= personal announcement option/ list of announcement action, see Pars. 0007, 0016-17, 0024-26 and 0029-3); and

managing the incoming call according to the one of the predefined preferences and the real-time instructions, wherein the one of the predefined preferences and the real time instructions includes at least one of forwarding the incoming call, requesting a sender of the incoming call to send an instant message, and responding to the incoming call with a voicemail message (= personalized announcement/option, e.g., I am in the meeting right now, see Pars. 0016 and 0030), wherein the responding to the incoming call is adjusted according to one or more of the predefined preferences, the calendar, and the real-time instructions (= selection of real time personal message/announcement to play to a caller, see Pars. 0016, 0023, 0028 and 0031).

Simpson fails explicitly to mention, "wherein the caller ID and the information are retrieved from a plurality of sources".

However, Pepper, which is an analogous art, teaches that;

["...network 300 receives a call from a communications device 302, such as a telephone, fax machine, or computer terminal. The communications device 302 is connected to a network interface 304, which is preferably a telephone network interface (TNI) located in the signaling network 102. The TNI is connected to a service control module 306, which is also preferably

located in the signaling network 102. The service control module 306 is in wireless or wireline communication with the subscriber's PDA 200. The PDA 200 preferably includes software stored in its memory 204, 206, which includes databases of caller priorities, the call recipient's schedule, and a graphical user interface (GUI) which appears on a screen or monitor of the PDA 200. The PDA may also be in communication with a database 308. The database may contain a copy of the subscriber's PhoneBook and DateBook databases. Preferably, the database 308 automatically synchronizes with the information stored in the subscriber's PDA 200... The service control module 306 communicates with the TNI 300 and databases to determine how to route an incoming call and communicates with the PDA 200 to inform the subscriber of recently received messages and to query the subscriber about the handling of certain calls...The subscriber uses the GUI to enter in his daily schedule and his list of clients. The GUI also alerts the subscriber when the service control module 306 communicates with the PDA about new pending messages and to determine if the subscriber wants to accept a given call or forward it on to the voice mail portion of the service control. The database 308 maintains a network copy of the subscriber's daily schedule and client list which are used, along with the subscriber's default profile, to determine which calls to forward directly to the subscriber at his current location, which calls to forward to the subscriber's voice mail box, and when to let the subscriber decide what to do with a particular call"], (see col. 5, lines 20-42 and col. 6, lines 1-11; whereby the database 308 in synchronization with subscriber's PhoneBook and DateBook databases, is being associated with the "plurality of sources").

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Pepper and Simpson for the benefit of achieving a communication system that uses subscriber's client list in the network database 308 to

attempt to identify call origin using the associated ANI information (see Pepper, col. 6, lines 12-24).

Regarding claims 2,9,16 and 23, Simpson further discloses a method according to claims 1,8,15 and 22 wherein retrieving the information associated with the incoming call further comprises at least one of: retrieving the information from the cell phone (= wireless telephone displays the Caller ID in the display, see Page 2, line 0016); retrieving the information from the data processing device; and retrieving the information from a source coupled to the data processing device.

Regarding claims 5,12,19,26, Simpson further discloses a method according to claim 1,8,15 and 22 wherein responding to the incoming call with the voicemail message further comprises selecting one of a plurality of voicemail messages as the appropriate response (= the wireless telephone user can select a specific voice mail announcement or a general announcement that allows wireless phone to answer on his/her behalf, see Page 2, line 0016).

4. **Claims 7,14, 21 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson in view of Pepper and further in view of Ihara et al., (U.S 20040185915 A1), (hereinafter Ihara).**

Regarding **claims 7, 14, 21 and 28**, the combination of Simpson and Pepper fails to teach according to claims 1,8,15 and 22 wherein the signal is an Attention Command ("AT") signal.

However, Ihara, which is an analogous art, teaches a silent alerting capability for a Bluetooth hand-free device (see Page 1, line 0004). Ihara further discloses that the user answer at Fig. 3, item 328 initiates an "attention" command or "AT" command from HF device to AG device, see Page 3, line 0025).

It would therefore have been obvious to one of the ordinary skill in the art to combine the teaching of Ihara with Simpson and Pepper for the benefit of achieving a silent alert communication system.

CONCLUSION

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached form PTO-892 for cited references and the prior art made of record.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. SEE MPEP 2141.02 [R-5] VI. PRIOR ART MUST BE CONSIDERED IN ITS ENTIRETY, INCLUDING DISCLOSURES THAT TEACH AWAY

FROM THE CLAIMS: A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of 33the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-T (9am - 7pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/KWASI KARIKARI/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617